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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-573**

12 **BARBARA LYNN CHORNOMUD**  
13 **9631 Innsbruck Drive**  
14 **Huntington Beach, CA 92646**

**A C C U S A T I O N**

15 **Registered Nurse License No. 389323**

16 Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about August 31, 1985, the Board of Registered Nursing issued Registered  
25 Nurse License No. 389323 to Barbara Lynn Chornomud (Respondent). The registered nurse  
26 license was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on May 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1 (b) Use any controlled substance as defined in Division 10 (commencing with  
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
3 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
4 dangerous or injurious to himself or herself, any other person, or the public or to the  
5 extent that such use impairs his or her ability to conduct with safety to the public the  
6 practice authorized by his or her license.

7 ...

8 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible  
9 entries in any hospital, patient, or other record pertaining to the substances described  
10 in subdivision (a) of this section.

11 8. Health and Safety Code section 11173, subdivision (a), states, in pertinent part,  
12 that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
13 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
14 misrepresentation, or subterfuge . . ."

#### 15 REGULATION

16 9. California Code of Regulations, title 16, section 1442, states:

17 As used in Section 2761 of the code, "gross negligence" includes an extreme  
18 departure from the standard of care which, under similar circumstances, would have  
19 ordinarily been exercised by a competent registered nurse. Such an extreme departure  
20 means the repeated failure to provide nursing care as required or failure to provide  
21 care or to exercise ordinary precaution in a single situation which the nurse knew, or  
22 should have known, could have jeopardized the client's health or life.

#### 23 COSTS

24 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
25 administrative law judge to direct a licentiate found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.

#### 28 DRUGS:

11. Lortab is a Schedule II controlled substance pursuant to Health and Safety Code  
section 11055(b)(1)(J) and a dangerous drug pursuant to Business and Professions Code section  
4022. Lortab is a trade name for the narcotic substance hydrocodone with the non-narcotic  
substance acetaminophen.

12. Vicodin is a Schedule III controlled substance pursuant to Health and Safety Code section 11055(b)(1)(J) and a dangerous drug pursuant to Business and Professions Code Section 4022. Vicodin is a trade name for the narcotic substance hydrocodone or dihydrocodeione with the non-narcotic substance acetaminophen.

13. Pyxis and Pandora Data System are trade names for the automated single-unit-dose medication dispensing system which records information such as patient name, physician orders, date and time medication was withdrawn, and the name of the licensed individual who withdrew and administered the medication.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

14. Respondent is subject to disciplinary action under Code section 2761(a)(1), on the grounds of gross negligence, within the meaning of CCR section 1442, in carrying out licensed nursing functions. The circumstances are as follows:

Hoag Memorial Hospital:

15. On July 23, 2005, Respondent was working as a registered nurse at Hoag Memorial Hospital in Newport Beach, California and was caring for patient C.N. Patient C.N. did not have a medication order for Lortab. On July 23, 2005, Respondent documented in patient C.N.'s chart that she administered 8 Lortab tablets to patient C.N. The Pyxis machine indicated that Respondent only withdrew 5 Lortab tablets for patient CN. Respondent later admitted to pulling 2 Lortab tablets from the Pyxis machine under nurse K.K.'s code and claimed to have given the Lortab tablets to patient C.N.

16. On July 23, 2005 at approximately 7:00 p.m., Nurse W.L. relieved Respondent and assumed care of patient C.N. Nurse W.L. asked patient C.N. if she had been experiencing any pain during the day. Patient C.N. denied that she had pain during the day and also denied she was given Lortab or any pain medication during the day. Patient C.N. was on a ventilator and could not swallow oral medications. Respondent claimed that a doctor made a verbal order for Lortab for patient C.N. Respondent hand wrote a doctor's order for Lortab for patient C.N. and faxed the order to the hospital pharmacy so she could withdraw Lortab from the Pyxis machine. Nurse

1 K.K. confronted Respondent regarding there was no nursing note in patient C.N.'s chart for a  
2 doctor's verbal order for Lortab. At the end of Respondent's shift, she wrote a nursing note for  
3 verbal orders from Dr. R. and Dr. S. ordering Lortab for patient C.N. Respondent said she forgot  
4 to write the verbal orders in patient C.N.'s chart earlier when they occurred. Dr. R. and Dr. S. did  
5 not order Lortab for patient C.N.

6 17. On July 23, 2005, nursing staff confronted Respondent regarding her withdrawing  
7 Lortab under the name of another nurse and falsely claiming a doctor ordered Lortab for patient  
8 C.N. When the charge nurse escorted Respondent to her office, Respondent was having trouble  
9 focusing, concentrating, and was unable to explain her rationale in managing the narcotics for the  
10 orders that she recorded.

11 18. Respondent admitted that she ingested Vicodin while she was working on July 23,  
12 2005. Respondent stated that she had a prescription for Vicodine with instructions to take one to  
13 two tablets every four hours.

14 Fountain Valley Regional Hospital:

15 19. On November 5, 2008, Respondent was working as a registered nurse at Fountain  
16 Valley Regional Hospital in Fountain Valley, California. While on duty, Respondent withdrew  
17 two Vicodin tablets from the Pandora System for patient 1, who was not assigned to  
18 Respondent's care. Respondent did not document in patient 1's Medication Administration  
19 Record (MAR) that she administered Vicodin to patient 1. On November 5, 2008, Respondent  
20 was confronted by the Director of the ICU at Fountain Valley Regional Hospital and asked if she  
21 had administered the two Vicodin tablets to patient 1. Respondent said she had administered the  
22 two Vicodin tablets to patient 1 but had forgotten to chart it in patient 1's MAR. When  
23 questioned further, Respondent admitted that she took the two Vicodin tablets for herself and  
24 ingested them. On November 5, 2008, Respondent was terminated from Fountain Valley  
25 Regional Hospital.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Obtain Controlled Substances in Violation of the Law)

3 20. Respondent is subject to disciplinary action under Code section 2762(a) in that she  
4 obtained controlled substances in violation of the law. The circumstances are as follows:

5 a. On July 23, 2005, Respondent stole Lortab tablets from the Pyxis machine at Hoag  
6 Memorial Hospital as more specifically set forth in paragraphs 15 through 18 above, and  
7 incorporated herein by reference as though fully set forth herein.

8 b. On November 5, 2008, Respondent stole Vicodin tablets from the Pandora System at  
9 Fountain Valley Regional Hospital as more specifically set forth in paragraph 19 above, and  
10 incorporated herein by reference as though fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Obtain Controlled Substances by Fraud, Deceit or Subterfuge)

13 21. Respondent is subject to disciplinary action under Code section 2761(a)(d) and  
14 Health and Safety Code section 11173(a) in that she obtained controlled substances by fraud,  
15 deceit or subterfuge. The circumstances are as follows:

16 a. On July 23, 2005, Respondent stole Lortab tablets from the Pyxis machine at Hoag  
17 Memorial Hospital as more specifically set forth in paragraphs 15 through 18 above, and  
18 incorporated herein by reference as though fully set forth herein.

19 b. On November 5, 2008, Respondent stole Vicodin tablets from the Pandora System at  
20 Fountain Valley Regional Hospital as more specifically set forth in paragraph 19 above, and  
21 incorporated herein by reference as though fully set forth herein.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Administering a Controlled Substance to Self)

24 22. Respondent is subject to disciplinary action under Code section 2762(a) in that she  
25 administered to herself a controlled substance in violation of the law when on November 5, 2008,  
26 while on duty as a nurse at Fountain Valley Regional Hospital, she stole two Vicodin tablets from  
27 the Pandora System and ingested them as more specifically set forth in paragraph 19 above, and  
28 incorporated herein by reference as though fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (False and Grossly Incorrect Entries in Medical Records)

3 23. Respondent is subject to disciplinary action under Code section 2762(e) in that she  
4 falsified and made grossly incorrect entries in patient records and prescription documents. The  
5 circumstances are as follows:

6 a. On July 23, 2005, Respondent documented in patient C.N.'s chart that she  
7 administered 8 Lortab tablets to patient C.N., when in fact, she did not. Respondent forged a  
8 doctor's order for Lortab for patient C.N. and faxed the order to the hospital pharmacy.  
9 Respondent wrote a nursing note in patient C.N.'s patient chart for verbal orders from Dr. R. and  
10 Dr. S. ordering Lortab for patient C.N. when those doctors did not order Lortab for patient C.N.  
11 The circumstances are more specifically set forth in paragraphs 15 through 18 above, and  
12 incorporated herein by reference as though fully set forth herein.

13 b. On November 5, 2008, Respondent withdrew two Vicodin tablets from the Pandora  
14 System entering into the Pandora System that the Vicodin was for patient 1, when Respondent did  
15 not administer Vicodin to patient 1, but instead ingested it herself. The circumstances are more  
16 specifically set forth in paragraph 19 above, and incorporated herein by reference as though fully  
17 set forth herein.

18 SIXTH CAUSE FOR DISCIPLINE

19 (Use of a Controlled Substance in a Manner Dangerous to the Public)

20 24. Respondent is subject to disciplinary action under Code section 2762(b) in that  
21 Respondent used a controlled substance in a manner dangerous to the public to the extent that her  
22 use impaired her ability to work as a registered nurse when on July 23, 2005, a co-worker noticed  
23 that Respondent was having trouble focusing, concentrating, and was unable to explain her  
24 rationale in managing the narcotics for the orders that Respondent recorded. Additionally,  
25 Respondent admitted that she ingested Vicodin while on duty at work. The circumstances are  
26 more specifically set forth in paragraphs 15 through 18 above, and incorporated herein by  
27 reference as though fully set forth herein.

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PRAYER

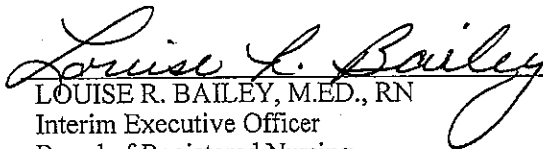
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 389323, issued to Barbara Lynn Chornomud;

2. Ordering Barbara Lynn Chornomud to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/10

  
LOUISE R. BAILEY, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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